

By: Bell

H.B. No. 4183

A BILL TO BE ENTITLED

AN ACT

relating to the administration of certain water districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 49.105, Water Code, is amended by adding Subsection (e) to read as follows:

(e) Not later than the 30th day after the date the commission receives a request to appoint a director to fill a vacancy under this section, the commission shall respond to the request.

SECTION 2. Section 49.181, Water Code, is amended by amending Subsection (f) and adding Subsections (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), and (t) to read as follows:

(f) The commission shall determine whether the project to be financed by the bonds is feasible and issue an order either approving or disapproving, as appropriate, the issuance of the bonds. The commission may not disapprove the issuance of bonds for all or a portion of a project or require that the funding for all or a portion of a project be escrowed on the basis that the construction of the project is not complete at the time of the commission's determination. The commission shall retain a copy of the order and send a copy of the order to the district.

(i) In reviewing an engineer's report submitted with an application for approval under this section, the commission shall give deference to the professional opinions and determinations of

1 the licensed civil engineer who signed and sealed the application,
2 the engineer's report, or documents included in the application or
3 engineer's report.

4 (j) An application for the approval of bonds under this
5 section may include financing for payment of creation and
6 organization expenses. Expenses are creation and organization
7 expenses if the expenses were incurred through the date of the
8 canvassing of the confirmation election. A commission rule
9 regarding continuous construction periods or the length of time for
10 the payment of expenses during construction periods does not apply
11 to expenses described by this section.

12 (k) The commission shall issue a notice of deficiency before
13 issuing an order disapproving an application for expedited review
14 of the issuance of bonds. The commission shall issue the notice not
15 later than the 45th day after the date the application for expedited
16 review is considered administratively complete. A notice of
17 deficiency under this subsection must contain:

18 (1) a description of the deficiency;
19 (2) an explanation of the reasoning for the
20 disapproval; and

21 (3) a citation to the specific statute or rule that
22 supports the reasoning for the disapproval.

23 (l) The commission shall issue a notice of deficiency before
24 issuing an order disapproving the issuance of bonds to finance all
25 or a portion of a project. In the event that the commission fails to
26 issue the notice of deficiency, the commission may only disapprove
27 the issuance of bonds if the project financed fails to meet the

1 requirements for economic feasibility. The commission shall issue
2 the notice of deficiency:

3 (1) not later than the 90th day after the date the
4 application for approval is considered administratively complete
5 for an application for approval that qualifies for expedited review
6 under commission rule; or

7 (2) not later than the 45th day after the date the
8 application for approval is considered administratively complete
9 for an application for approval that does not qualify for expedited
10 review under commission rule.

11 (m) A notice of deficiency under Subsection (l) must
12 contain:

13 (1) a description of the deficiency;

14 (2) an explanation of the reasoning for the
15 disapproval; and

16 (3) a citation to the specific statute or rule that
17 authorizes the disapproval.

18 (n) A citation to this section or to 30 T.A.C. Section
19 293.43(6) is not sufficient for the purposes of Subsection (k) or
20 (m).

21 (o) The district may respond to a notice of deficiency
22 issued under Subsection (k) or (l) not later than the 10th day after
23 the date the district receives the notice.

24 (p) On receipt of a memorandum and draft order issued by the
25 commission recommending disapproval of the issuance of bonds to
26 finance all or a portion of a project, the district may:

27 (1) concur with all or part of the recommendations;

1 (2) respond to the recommendations; or

2 (3) dispute all or part of the recommendations.

3 (q) If the district disputes a portion of the recommendation
4 under Subsection (p), the commission shall provide for the escrow
5 of the funding for the disputed portion. This subsection does not
6 apply if the disputed portion of the financing would result in
7 noncompliance with the commission's rules regarding economic
8 feasibility.

9 (r) The commission shall approve an application to issue
10 bonds to finance the costs of spreading and compacting fill to
11 remove property from the 100-year floodplain made by a levee
12 improvement district.

13 (s) The commission shall approve an application to issue
14 bonds to finance the costs of spreading and compacting fill to
15 provide drainage that is made by a municipal utility district or a
16 district with the powers of a municipal utility district if the
17 costs are less than the cost of constructing or improving drainage
18 facilities.

19 (t) If a district is approved for the issuance of bonds by
20 the commission to use a certain return flow of wastewater, the
21 approval applies to subsequent authorizations unless the district
22 seeks approval to use a different return flow of wastewater.

23 SECTION 3. Section 49.273(i), Water Code, is amended to
24 read as follows:

25 (i) If changes in plans or specifications are necessary or
26 convenient, as determined by the board, after the performance of
27 the contract is begun, or if it is necessary or convenient, as

1 determined by the board, to decrease or increase the quantity of the
2 work to be performed or of the materials, equipment, or supplies to
3 be furnished, the board may approve change orders making the
4 changes. A change order may be outside the scope of the original
5 project. The board may grant authority to an official or employee
6 responsible for purchasing or for administering a contract to
7 approve a change order that involves an increase or decrease of
8 \$50,000 or less. The aggregate of the change orders that ~~[may not]~~
9 increase the original contract price by more than 25
10 percent~~[. Additional change orders]~~ may be issued only as a result
11 of unanticipated conditions encountered during construction,
12 repair, or renovation or changes in regulatory criteria or to
13 facilitate project coordination with other political entities. A
14 change order is not subject to the requirements of Subsection (d) or
15 (e).

16 SECTION 4. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2017.